IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2110 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil judge?

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PARMAR DINESHBHAI KESHAVBHAI - Petitioner(s)
Versus
STATE OF GUAJRAT THR' SECRETARY & 2 - Respondent(s)

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Appearance :
MR AS SUPEHIA for the Petitioner
MS MANISHA L SHAH, A.G.P. for Respondents

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/03/2006

ORAL JUDGMENT

1. In the present petition the petitioner has made two fold grievance. Firstly, the petitioner has prayed for being paid compassionate pension with effect from 30.10.2001. Second aspect of the grievance of the petitioner is that according to him, he is receiving less amount of Provident Fund to the extent of Rs. 7548/-. He

has therefore, prayed for a direction to release the said amounts with interest from the date of retirement till its actual release.

2. The petitioner was in Government service. On account of alleged misconduct. Departmental inquiry was initiated against him. By an order dated 30.10.2001, he was compulsorily retired by way of penalty. Broadly, stated the allegation against the petitioner was for remaining absent from duty for a period of 155 days.

3. Be that as it may, the order of penalty has become final. The petitioner stands compulsorily retired with effect from 30.10.2001. It is the case of the petitioner that despite order of penalty he is entitled to receive compassionate pension. The petitioner has placed reliance on the provisions contained in Rule 274 of the BCSR which authorizes the government to grant compassionate pension to a person who has been made to compulsorily retire by way of penalty. For the said purpose, the petitioner made representation, in particular the petitioner referred to representation dated 07.10.2005 made to the competent authority through proper channel. It is the case of the petitioner that no decision has been taken by the respondents in this regard.

3.1 With respect to the payment of Provident Fund amounts, the petitioner has produced at Annexure-I to the petition a copy of the sheet showing the calculation of the amounts deposited in Provident Fund account of the petitioner. It suggests that closing balance of Provident Fund amount as on 1st March, 2005 was Rs. 28156/-. It is therefore, the case of the petitioner that respondents should have paid full amount upon his retirement and the respondents erred in paying a amount of Rs. 21890/-. The amount of difference, therefore, according to the petitioner is required to be released with interest.

4. It is not in dispute that despite the order of penalty of pre-mature retirement, it is open for the State Government to consider the case of the petitioner for grant of compassionate pension in terms of provisions contained in BCSR and in particular Rule 274 thereof. The respondents should therefore, at least take a decision in this regard and the request of the petitioner cannot be allowed to suffer for want of decision by the Government. In that view of the matter, it is directed that the respondents shall take a decision with respect to request of the petitioner for being granted compassionate

pension. Such a decision shall be taken within a period of two months from the date of receipt of a copy of this order.

5. Simultaneously, the respondents shall also examine the grievances of the petitioner that Provident Fund was not paid to him in full and that there was a short fall of Rs.7548/- which is yet to be paid to the petitioner. On the basis of amount accumulated in the Provident Fund account of the petitioner, if it is found that Provident Fund paid to the petitioner was less, the same shall be paid to him with interest at the rate of 7% Simple Interest per annum from 31.10.2001 till its actual payment. This shall also be done within a period of two months from the date of receipt of a copy of this order.

6. With these directions the petition is disposed of. Rule is made absolute to the above extent. No order as to costs.

[Akil Kureshi, J.]

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